

GAMBLING LAW IN OREGON

Joint Interim Committee On Gambling Regulation

October 27, 2022

TYPES OF GAMBLING

- Charitable, fraternal, and religious
- Social games
- The Lottery
- Parimutuel (racing)

CONSTITUTION OF 1859

“Lotteries, and the sale of lottery tickets for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.”

CHARITABLE GAMBLING

Measure 6 (1976):

(2) The Legislative Assembly may provide for the establishment, operation, and regulation of the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal, or religious organizations mean such organizations as defined by law which are also exempt from payment of federal income taxes because of their charitable, fraternal, or religious purposes.

Measure 3 (1986):

(2) The Legislative Assembly may provide for the establishment, operation, and regulation of raffles and the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal or religious organizations means such organizations or foundations as defined by law [*which are also exempt from payment of federal income taxes*] because of their charitable, fraternal, or religious purposes. The regulations shall define eligible organizations or foundations, and may prescribe the frequency of raffles, bingo or lotto, set a maximum monetary limit for prizes and require a statement of the odds on winning a prize. The Legislative Assembly shall vest the regulatory authority in any appropriate state agency.

CHARITABLE GAMBLING

Regulated under ORS 167.108 to 167.164 and 464.270 to 464.530

- Department of Justice is authorized to license charitable, fraternal or religious organizations to conduct bingo, lotto, raffle, or Monte Carlo events
- Department has broad authority to investigate and regulate such games
- Statute places limits prize values, gross income, and profits

SOCIAL GAMES

167.121 Local authorization of social games.

Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 c.7 §3]

167.117 Definitions...

...

(21) “Social game” means:

(a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

(b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

STATE LOTTERY

Measures 4 and 5 (1984):

4

CONSTITUTIONAL AMENDMENT ESTABLISHES STATE LOTTERY, COMMISSION; PROFITS FOR ECO- NOMIC DEVELOPMENT

QUESTION—Shall a state lottery operated by commission be established, profits to be used to create jobs and further economic development?

EXPLANATION—Constitutional amendment establishes state lottery and lottery commission to operate games other than bingo, parimutuel racing or social gaming. Bans casinos. Profits to be used to create jobs, for economic development. Requires 50% of proceeds to be paid in prizes. Limits expenses to 16%. Requires legislature to lend \$1,800,000 to fund initial costs, repaid from profits. If this and other constitutional initiative(s) authorizing lottery pass, only measure with most votes takes effect.

ESTIMATE OF FINANCIAL EFFECT—Passage of this measure will increase total annual general fund revenue approximately \$30 to \$110 million. At least 84 percent of this revenue will be used for prizes, economic development, and job creation programs. The remaining revenue, up to 16 percent, will pay administrative costs. \$1.8 million of general fund money will be used to start the lottery. Within one year, this loan plus 10 percent interest will be repaid to the general fund from lottery ticket sales.

5

STATUTORY PROVISIONS FOR STATE OPERATED LOTTERY IF CONSTITU- TIONALLY AUTHORIZED

QUESTION—Shall legislation be enacted to regulate state lottery, establish qualifications for commission, director, retailers, vendors and contractors, if constitutionally authorized?

EXPLANATION—Measure regulating and providing for state operated lottery becomes effective if separate constitutional amendment passes. **CONTAINS MANY DETAILS NOT MENTIONED HERE.** Requires legislature to lend \$1,800,000 to fund initial costs, repaid from profits. Requires 50% of proceeds to be paid in prizes exempt from state taxes. Limits expenses to 16%. Establishes qualifications for lottery commissioners, director, lottery retailers, vendors and contractors. Provides for security, audits, and studies. Prohibits play by minors.

STATE LOTTERY

Constitutional provisions of Measure 4:

- Mandates commission to “establish and operate a State Lottery”
- Lottery is to be “a self-supporting revenue-raising agency.”
- Lottery “may operate any game procedure authorized by the commission” (except for parimutuel racing, social games, bingo and lotto), using “any existing or future methods” to distribute prizes
- Contemplates “lottery games utilizing computer terminals or other devices”

STATE LOTTERY

- Regulated under ORS chapter 461
- What can the legislature regulate?
 - Measure 5 provisions included:
 - Operational goals (to produce the maximum amount of net revenues ... commensurate with the public good”)
 - Game types (prohibition on games using “the theme of bingo, dog racing, or horse racing”)
- Legislature may not “unduly burden or interfere with” a constitutionally mandated task. 44 Op.Att’y Gen. 431, 438-39 (1985)

CASINO PROHIBITION

- Established by Measure 4
- “The Legislative Assembly has no power to authorize, and shall prohibit, casinos from operation in the State of Oregon.”
- *Ecumenical Ministries of Oregon v. Oregon State Lottery Comm'n*, 318 Or. 551 (1994)
 - “The voters intended to prohibit the operation of establishments whose dominant use or dominant purpose, or both, is for gambling.”
 - Court held that the presence of five VLTs in one place did not, in itself, establish a casino.
- 48 Op.Att’y Gen. 15 (1995)
 - Operation of 75 VLTs at racetracks would probably constitute a casino
 - BUT: query whether parimutuel betting should be considered to be “gambling” under *Ecumenical* test

PARIMUTUEL BETTING

- Traditional form of betting on animal races
- Regulated by the Oregon Racing Commission since 1933 (ORS chapter 462)
 - 2022 c.77: Prohibits new licenses for greyhound racing
- Commission has broad authority to regulate races and wagering

HISTORICAL HORSE RACING

- Wagering on past races
 - Authorized under ORS 462.155 in 2013 (at race courses only)
 - Authorized under ORS 462.725 in 2019 (by totalizator hubs)
- 2021 c.573: restrictions on HHR
 - Wagers must be made at race courses
 - Bettors may not place bets using personal electronic devices
- February 2022: DOJ opinion on HHR

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